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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/574,169	03/29/2006	Christian Scheering	2003P07837WOUS	4121

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SIEMENS CORPORATION
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EXAMINER
CHACKO, JOE

ART UNIT	PAPER NUMBER
4134	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *29 March 2006*.
2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.
3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *9-18* is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5)☐ Claim(s) _____ is/are allowed.
6)☒ Claim(s) *9-18* is/are rejected.
7)☐ Claim(s) _____ is/are objected to.
8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.
10)☒ The drawing(s) filed on *29 March 2006* is/are: a)☒ accepted or b)☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a)☐ All   b)☐ Some * c)☐ None of:
  1.☒ Certified copies of the priority documents have been received.
  2.☐ Certified copies of the priority documents have been received in Application No. _____.
  3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
 * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
 Paper No(s)/Mail Date *3/29/2006, 6/26/2006*.
4) ☐ Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____ .

DETAILED ACTION

Claim Rejections - 35 USC § 112

1.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly
> claiming the subject matter which the applicant regards as his invention.

2.   **Claim 15** recites the limitation "timer" in line 1. There is insufficient antecedent basis for this limitation in the claim. This maybe corrected by changing the claim dependency of claim 15 from claim 13 to claim 14.

Claim 16 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The recitation of "computer control program" is unclear as cited in claim 16 since the specification only discloses "control program" in paragraphs [0002], [0006] and [0030](see PG Publication).   The specification does not disclose computer control program and the difference between "computer control program" and "control program" is unknown.

The recitation of "client computer" is unclear as cited in claim 16 since the specification only discloses "client" (figure 1, [0015]) and the difference between "client" and "client computer" is unclear.

For the purposes of examination, claims 16 and 17 are being treated as the combination of the program and the memory, and not the program per se.

Claim Rejections - 35 USC § 103

3.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4.   **Claims 9-11 and 13-18** are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Pub. No. 2002/0129150 Al to Jung in view of U.S. Patent No. 6,163,855 to Shrivastava et al.

As to **claim 9**, Jung discloses a method for a HA (home agent) inquiring whether a service is available (fig.14,346, verifying an availability of a server), comprising: transmitting an availability request by a HA (home agent)(client) to the VPN server(page 5, [0071]); transmitting a response to the availability request by the VPN server to the client by confirmation message if the server is available (fig.15, step 348);and Jung does not disclose transmitting a message regarding an availability of the server by the client to other clients to prevent a transmission of the availability request to the server for a predefinable period of time.
In an analogous art, Shrivastava et al. does disclose broadcasting a message to other nodes in the cluster regarding the availability of the node manager (server) or any other system in the cluster. (fig.2, column 5, lines 10-37)
At the time of the invention, it would have been obvious to a person of ordinary skilled in the art to modify the method disclosed by Jung with the method disclosed by Shristastava et al. to disclose a method of transmitting messages to another peer entities in the network. The motivation behind this modification is to ensure consistency of nodes in the cluster. (Shrivastava, column 2, lines 24-26)

As to **claim 10**, Jung discloses a method in which a message is used to verify the availability of the server in the network (packet-oriented communication network) (page 2, [0018])

As to **claim 11**, Jung discloses a method wherein data is transmitted between the VPN network entites such as ISP server (server, fig.4, 180) and clients (CN,fig.4, 40) by the ISP router (connectionless switching control). (page 3, [0043],[0044])

As to **claim 13**, Jung does not explicitly disclose when the client informs only client in the same subnetwork.

Shristastava discloses a method wherein the nodes (client) informs only the other clients within a same cluster (subnetwork) regarding the availability of the server. (fig.2, column 5, lines 10-37)

As to **claim 14**, Jung discloses the HA (client) executes the availability request at a time which is predefined by a timer. (page 5, [0072])

As to **claim 15**, Jung discloses the method, wherein the timer is set every time to a predefinable value when the message regarding the availability of the server is received at the HA. (page 6, [0073])

As to **claim 16**, this is a computer program corresponding to method in claim 1. Therefore it has been analyzed and rejected based upon method in claim 1.

As to **claim 17**, the computer program in claim 16 to be implemented will be present in the client computer which obviously contains random access memory which is well known in the art at the time of the invention

As to **claim 18**, this is a system corresponding to method in claim 1. Therefore it

has been analyzed and rejected based upon method in claim 1.

5.   **Claim 12** is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Pub. No. 2002/0129150 AI to Jung in view of U.S. Patent No. 6,163,855 to Shrivastava et al. further in view of U.S. Patent Pub. No. 2002/016964 AI to Chen et al.

As to **claim 12**, Jung and Shrivastava as modified does not explicitly disclose the transmitting of a multicast message to the other clients in the network
In an analogous art, Chen explicitly discloses the use of multicast message to inform other clients in the cluster about server availability information. (page 3,[0045, 0046] , page 4, [0056,0057]).
At the time of the invention, it would have been obvious to a person of ordinary skilled in the art to modify the method disclosed by Jung as modified with the method disclosed by Chen et al. to disclose a method of transmitting messages to another peer entities in the network using multicast messages. The motivation behind this modification is to provide high availability and reliability among the nodes. (Chen, page 4, [0056])

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOE CHACKO whose telephone number is (571)270-3318. The examiner can normally be reached on Monday-Friday 7:30am-5pm EST.
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lun-Yi Lao can be reached on 571-272-7671. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/JOE CHACKO/
Examiner, Art Unit 4134*
/LUN-YI LAO/
Supervisory Patent Examiner, Art Unit 4134